REMARKS

Claims 1, 8, 14-17, and 19-30 were pending. Claims 32 and 33 have been added Support for these claims may be found in the Specification at least at page 2, line 28 – page 3, line 6. No claims have been amended or cancelled. Therefore claims 1, 8, 14-17, 19-30, 32, and 33 remain pending in the application.

Claim Rejections

Claims 1, 8, 14, 16, 17, 21, 22, 25, and 26 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,734,589 (hereinafter "Kostreski") in view of Gordon et al. (US 6,208,335, hereinafter "Gordon"). Claims 15, 23, 24, and 27 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Kostreksi in view of Gordon and further in view of U.S. Patent 5,903,262 (hereinafter "Ichihashi"). Claims 19 and 30 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Kostreski in view of Gordon and further in view of U.S. Patent Publication 2004/0221307 (hereinafter "Arai"). Finally, Claims 20, 28, and 29 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Kostreski in view of Gordon and further in view of Strauss et al. (US 5,790,173, hereinafter "Strauss"). Applicant respectfully traverses the above rejections and requests reconsideration in view of the following discussion.

In response to Applicant's previous arguments regarding a built-in banner as recited in claim 1, the Examiner suggests

> "The applicant is not explicitly claiming a built-in banner, but something that is "termed" a built-in banner corresponding to a built-in application. The way it is claimed merely, states a second application that is called or named a built-in banner that corresponds to a built-in application, and does not explicitly further limit and explicitly define what constitutes a built-in banner. Therefore, a component that corresponds to a built-in application such as the part of software in Kostreski that handles presentation of services meets the claimed limitations."

However, Applicant does not agree. Not only does claim 1 recite "a second type termed a built-in banner corresponding to a built-in application for presenting services," a built-in banner is explicitly claimed in that claim 1 further recites "routing said navigation event to the built-in banner, in response to determining no surfer application is available and the decoder is not under control of a surfer application." Further, the language of the claims are to be read in light of the specification which includes:

> "... a built-in application, called Banner stored in the decoder in order to allow a user to navigate or surf through all available services. This built-in software presents all services to the viewer and enables the channel changing process. In other words, the Banner handles all channel-changing processes inside the decoder." (Specification, page 2, line 29 – page 3, line 6).

It is clear from the above that a built-in banner is a built in application, i.e., that it is not part of the operating system, and that it handles all channel changing and presentation of services for all available services. With this definition in mind, Applicant notes claim 1 recites, in part:

> "routing said navigation event to the built-in banner, in response to determining no surfer application is available and the decoder is not under control of a surfer application."

In contrast, Kostreski suggests that when it is determined that no surfer application is available, rather than using a built-in banner, a new surfer application is sought. In the present Office Action, the Examiner suggests Kostreski teaches these features at col. 27, lines 26-34. However, Kostreski merely teaches a DET may have some built-in functionality. However, there is no disclosure of routing to a built in application that handles all channel changing and presentation of services for all available services (i.e., to a built-in banner). Furthermore, Kostreski suggests that when it is determined that no surfer application is available, rather than using a built-in banner, a new surfer application is sought. More specifically, Kostreski teaches:

> "If the navigation program is stored in the DET, the pressing of the "GUIDE" button begins execution of the guide program, which directs the DET to download any necessary data, and thereafter provides a menu for the user. If the navigation program is not stored in the DET, then the pressing of the "GUIDE" button initiates a routine in the operating system to go to the appropriate control channel (e.g., channel 01, timeslot 0) to access, capture and execute the navigation software.
>
> Once at least the program mapping portion of the software and/or data are stored in DET memory, the DET uses that information to select program services in response to user inputs." (Kostreski, col. 27, lines 22-34, emphasis added).

What should be appreciated from the above is that in contrast to the recited "routing said navigation event to the built-in banner, in response to determining no surfer application is available," in the absence of an already loaded navigation program, Kostreski's system goes to the appropriate control channel to access, capture, and execute navigation software. Therefore, not only does Kostreski not disclose a built-in banner as claimed, Kostreski neither teaches nor suggests "routing said navigation event to the built-in banner, in response to determining no surfer application is available and the decoder is not under control of a surfer application," as is recited in claim 1.

For at least the above reasons, Applicant submits claim 1 is patentably distinguishable from the cited art, taken either singly or in combination, as is claim 8 for similar reasons. The dependent claims are likewise patentably distinguishable for at least the above reasons.

In addition, new claim 32 recites:

> "The method of claim 1 wherein the built-in banner is configured to present services without use of a downloaded surfer application."

As already discussed, Kostreski discloses downloaded navigation software is used for presentation of services. In addition, the built-in software to which Kostreski routes navigation events if a navigation program is not stored in the DET is at best a routine in the operating system for downloading navigation software. Therefore, Kostreski's system

does not include "a built-in application for presenting services without use of a downloaded surfer application," as is recited in claim 32. For at least these additional reasons, claim 32 is patentably distinguishable from the cited art, as is claim 33 for similar reasons.

In view of the above, Applicant believes all claims to be in condition for allowance. If the examiner believes a telephone interview would facilitate allowance of the present matter, the below signed representative requests such an interview.

CONCLUSION

Applicant submits the application is in condition for allowance, and notice to that effect is respectfully requested.

If any extension of time (under 37 C.F.R. § 1.136) is necessary to prevent the above-referenced application from becoming abandoned, Applicant(s) hereby petition for such an extension. If any fees are due, the Commissioner is authorized to charge said fees to Meyertons, Hood, Kivlin, Kowert, & Goetzel, P.C. Deposit Account No. 501505/5266-05900/RDR.

Respectfully submitted,

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